

Application Number 10/697,860

Section 121 of the Patent Statute allows a restriction requirement in the event that two independent and distinct inventions are claimed in a single patent application. Applicant respectfully submits that claim Groups I, II and III set forth by the Examiner are not independent and distinct. There is a clearly disclosed relationship among the three distinct inventions identified by the Examiner and it would not be unduly burdensome to examine all claims 1-64 together.

Further, applicant does challenge the Examiner's determination that the distinct inventions identified in the Office Action are patentable over each other. Applicant traverses on the grounds that the Examiner has not demonstrated that examination of such distinct inventions in this application would impose a burden on the PTO. In particular, the Examiner has not sufficiently demonstrated any of the following: 1) that there is a separate classification of all the distinct inventions; 2) that a separate field of search would be required for the distinct inventions; or 3) that such distinct inventions have achieved a separate status in the art, even though they are classified together.

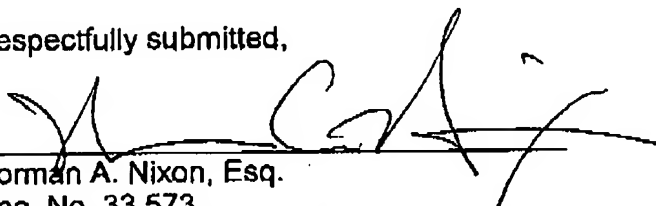
Specifically, Groups I and II are classified the same (class 473, subclass 169) with Group III only being in a different subclass (class 473, subclass 409). Applicant respectfully submits that the distinction between these two classifications is not sufficient to support the Examiner's conclusion that "the search required for Group III is not required for Group I or Group II" especially since subclasses 169 and 409 both depend from subclass 131.

Notwithstanding the above, to be responsive to the Examiner's restriction requirements and advance the case to examination and issue, applicant has elected Group II as set forth above. It is respectfully requested, however, that the restriction requirement be withdrawn and that a complete examination of the application in compliance with Section 131 be performed. In the alternative, applicant respectfully requests that at least Groups I and II be examined together.

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If a telephone conference will assist in expediting examination of the present application, the Examiner is invited to contact the undersigned at the telephone number below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Norman A. Nixon', is written over a horizontal line.

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